

**DECISION**



*19128 116105 PL-1 Golden*  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548**

**FILE: B-203914**

**DATE: August 13, 1981**

**MATTER OF: A&M School Bus Service**

**DIGEST:**

Protest based upon alleged improprieties in solicitation not filed prior to bid opening with either contracting agency or GAO is untimely filed under our Bid Protest Procedures and is not for consideration on merits.

A&M School Bus Service (A&M) protests the award of a contract to American Sightseeing Tours, Inc. (American), under invitation for bids (IFB) No. F08621-81-B0021, issued by the Air Force (Air Force) for school bus services at Homestead Air Force Base. A&M protests the Air Force's failure to set aside the procurement for small business. A&M also questions the Air Force's requirement in the solicitation for air-conditioned buses because of the cost to the Government and the method for determining award which was also stated in the solicitation.

We will not consider this protest because the protest is untimely filed with this Office.

In a letter dated May 20, 1981, A&M initially filed a protest with the Air Force raising these same issues concerning the solicitation. This protest was filed subsequent to bid opening on May 15, 1981.

This protest is based upon alleged improprieties in the solicitation which were apparent to A&M prior to bid opening. Agency protests based on alleged improprieties in any type of solicitation which are apparent prior to bid opening must be filed prior to bid opening for the subsequent protest to our Office to be considered. 4 C.F.R. § 21.2(a), (b)(1) (1981).

*[Protest of Air Force Failure to Set Aside Procurement for Small Business]*

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Because the bases of A&M's protest, regarding the unrestricted nature of the solicitation, the method of award, and the requirement for air-conditioned buses, were apparent from the solicitation and the protest was filed with the Air Force subsequent to bid opening, it is untimely and will not be considered on the merits. Crown Laundry and Cleaners, B-202137, March 20, 1981, 81-1 CPD 237.

The protest is dismissed.

*J. H. Barclay, Jr.*  
For Harry R. Van Cleve  
Acting General Counsel